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4 BILL NO. S-73-03-26

5 SPECIAL ORDINANCE NO. S- 43-73

6 AN ORDINANCE approving agreement with
7 NOBIS-WESTROPP for Phase I of water ex-
8 pansion project in area of Beacon-Vance
and Hobson Roads.


9 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
10 FORT WAYNE, INDIANA:

11 SECTION 1. The agreement, dated March 19, 1973, between
12 the City of Fort Wayne, by and through its Mayor and the Board
13 of Public Works, and NOBIS-WESTROPP CONSTRUCTION CO., INC., for:

14 Construction of Phase I of water expansion project in
15 the area of Beacon-Vance and Hobson Roads, said pro-
16 ject being part of Capital Improvement Program for
water utility, in the amount of \$54,860.10,

17 all as more particularly set forth in said agreement, which is
18 on file in the office of the Board of Public Works and is by
19 reference incorporated herein and made part hereof, is hereby in
20 all things ratified, confirmed and approved.

21 SECTION 2. This Ordinance shall be in full force and
22 effect from and after its passage and approval by the Mayor.

23
24 
Councilman

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31 APPROVED AS TO FORM
AND LEGALITY.

32 
CITY ATTORNEY
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Read the first time in full and on motion by Burns, seconded by Shirja, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197_____, at _____ o'clock P.M., E.S.T.

Date: 3-27-73

Charles W. Hesterman
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Galaried, and duly adopted, placed on its passage. Passed (~~lost~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____	to-wit:
BURNS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
HINGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
KRAUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
MOSES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
NUCKOLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SCHMIDT, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SCHMIDT, V.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
STIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
TALARICO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

DATE: 4-10-73

Charles W. Hesterman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~Zoning Map~~) (~~General~~) (~~Annexation~~) (~~Special~~) (~~Appropriation~~) Ordinance (~~Resolution~~) No. 4-43-73 on the 10th day of April, 1973.

ATTEST: (SEAL)

Charles W. Hesterman
CITY CLERK

William L. Mason JR.
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of April, 1973, at the hour of 10:00 o'clock A. M., E.S.T.

Charles W. Hesterman
CITY CLERK

Approved and signed by me this 11th day of April, 1973, at the hour of 3:30 o'clock P. M., E.S.T.

Dean A. R. [Signature]
MAYOR

Bill No. S-73-03-26

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance
_____ approving agreement with NOBIS-WESTROPP for Phase I
_____ of water expansion project in area of Beacon-Vance
_____ and Hobson Roads.

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance DO PASS.

Paul M. Burns - Chairman

William T. Hinga - Vice-Chairman

Vivian G. Schmidt

Donald J. Schmidt

Eugene Kraus, Jr.

Paul M. Burns
William T. Hinga
Vivian G. Schmidt
D.J. Schmidt
Eugene Kraus Jr.

DATE 4-10-73 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

WATER ENGINEERING DEPARTMENT
FORT WAYNE, INDIANA

WATER ENGINEERING DEPARTMENT
FORT WAYNE, INDIANA

[illegible]

FORT WAYNE, INDIANA

MATERIAL Prestressed Concrete Pipe

[illegible]

AGREEMENT

FOR CONSTRUCTION OF BEACON-VANCE-HOBSON FEEDER MAIN PHASE I

CONTRACT NO. 73-XP-1

THIS AGREEMENT, made this 19th day of March, 1973, by and between NOBIS WESTROPP CONSTRUCTION CO., INC., herein called the CONTRACTOR, and City of Fort Wayne, an Indiana Municipal Corporation, herein called OWNER,

WITNESSETH, that the CONTRACTOR and the OWNER for the considerations hereinafter named, agree as follows:

ARTICLE 1. SCOPE OF WORK

CONTRACTOR shall construct and install and furnish all necessary materials for the installation of 2025+ feet of 24 inch D. I. water main and its appurtenances on the Hobson Road and Vance Avenue, all as shown on Fort Wayne Water Utility Engineering Department Drawing No. Y-10445, sheets 1-5, and do everything required by the contract documents and this Agreement.

ARTICLE 2. TIME OF COMPLETION

The work to be performed under this Contract shall be commenced immediately upon notice to proceed and the work shall be completed within sixty (60) consecutive calendar days after receipt of material.

ARTICLE 3. THE CONTRACT SUM

The OWNER shall pay the CONTRACTOR for the performance of the Contract the sum of \$64,860.10. In event the amount of work is increased or decreased by the OWNER, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

ARTICLE 4. PROGRESS PAYMENTS

The OWNER shall make payments on account of the contract as provided therein, as follows:

On or about the 15th day of each month, ninety percent (90%) of the value of the work performed up to the first day of that month (based on the contract prices of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Engineering Department of the OWNER, less the aggregate of previous payments.

ARTICLE 5. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and the contract is fully performed.

Upon receipt of written notice that the work is ready for final inspection and acceptance, the Engineering Department of the OWNER shall promptly make such inspection, and when it finds the work acceptable under the contract and the contract fully performed, it shall promptly issue a final certificate stating that the work provided for in this contract has been completed and is accepted, and the entire balance of the contract sum shall be due and payable to the CONTRACTOR.

At the time said payment is due and payable, the CONTRACTOR shall furnish the OWNER, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

ARTICLE 6. GUARANTEE OF MATERIALS AND WORKMANSHIP

CONTRACTOR guarantees all materials and work against defects for a period of one year after the date of the acceptance of the work.

ARTICLE 7. THE CONTRACT DOCUMENTS

The Instructions to Bidders, Specifications, Contractor's Proposal, Bond and this Agreement form the Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated. The following is an enumeration of these documents:

- A. Instructions to Bidders for Contract No. 73-XP-1.
- B. Contractor's Proposal dated February 21, 1973.
- C. Contractor's Bond.
- D. Supplemental Specifications for Beacon-Vance-Hobson Feeder Main Phase I and Detailed Specifications and Conditions for the installation of Transmission and Distribution Mains, Contract No. 73-XP-1, and Fort Wayne Water Utility, Engineering Department Drawing No. Y-10445, Sheets 1-5.
- E. All materials shall be in accordance with Fort Wayne Water Utility, Engineering Department, Water Main Materials Standards, dated June 6, 1963, except as modified in the Supplemental Specifications.

ARTICLE 8. ADJUSTMENT OF DISPUTES

All questions or controversies which may arise between the CONTRACTOR and the OWNER under the provisions of this Contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Utility of the OWNER, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 9. INDEMNITY

CONTRACTOR shall indemnify the OWNER against any claim or loss incurred or arising out of the performance of the work as provided herein.

ARTICLE 10. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the OWNER by its Mayor and Board of Public Works, shall not be binding upon the OWNER unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within sixty (60) days after the date hereof, then this contract shall be and become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

NOBIS WESTROPP CONSTRUCTION CO., INC.,

BY: William M. Nobis, Pres

CONTRACTOR

CITY OF FORT WAYNE, INDIANA

By *Ivan A. Lesamoff*
Ivan A. Lesamoff, its Mayor

BOARD OF PUBLIC WORKS

Jerry D. Boswell
Jerry D. Boswell, Chairman

Ronald L. Bonar
Ronald L. Bonar

William G. Williams

ATTEST:

Edna I. Smith
Edna I. Smith, Clerk

APPROVED AS TO FORM AND LEGALITY:

John R. Fleck
~~XXXXXXXXXX~~ John R. Fleck
~~XXXXXXXXXX~~ Associate City Attorney

APPROVED by the Common Council of the City of Fort Wayne on _____,
1973, Special Ordinance No. _____.

CITY OF FORT WAYNE, INDIANA

IMPROVEMENT TO CITY UTILITIES - WATER WORKS DIVISION

PERFORMANCE BOND
AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, Nobis-Westropp
Construction Company, Inc. of Fort Wayne, Indiana

as principal, and the Fidelity & Deposit Co. of Maryland

as surety, are held and firmly bound unto the State of Indiana, for the benefit
of the City of Fort Wayne, Indiana, in the penal sum of Sixty Four Thousand
Eight Hundred Sixty and 10/100 Dollars (\$64,860.10) for the
payment of which we hereby jointly and severally bind ourselves, our heirs,
executors, administrators, successors and assigns.

DATED this 7th day of March, 197 3.

THE condition of this obligation is such that whereas the above named principal
did, on the _____ day of _____, 197____, enter into a contract with
the City of Fort Wayne, Indiana, by the terms of which said principal agreed to
perform everything required to be performed and to provide and furnish at his
sole cost and expense all the labor, tools, materials, expendable equipment,
transportation services, bonds and insurance required to perform and to com-
plete in a workmanlike manner all the work required in the above mentioned
contract for the sum of Sixty Four Thousand Eight Hundred Sixty and 10/100
Dollars (\$64,860.10) and to remove and replace any defective or
unsuitable materials, equipment or structure at the expense of said principal
which may be apparent or may develop from inferior workmanship or material
within one (1) year from the date of final acceptance of the above described
work, which contract is made a part of this bond the same as set forth herein:

Now, if said principal shall well and faithfully do and perform the things agreed by him, them, or it, to be done and performed according to the terms of said contract, and shall pay all lawful claims or indebtedness which may accrue, by operation of law and otherwise, to any persons, firm or corporation on account of any labor or service performed or material furnished or service rendered, in the carrying forward, performing, and completing of said contract; we agreeing and assenting that this undertaking directly inures to the benefit of subcontractors, laborers, materialmen and those performing service on account of or directly in connection with the completion of said contract, as well as for the obligee herein; then this obligation shall be void, otherwise the same shall remain in full force and effect; and

IT IS HEREBY EXPRESSLY UNDERSTOOD AND AGREED, and made a condition hereof, that any judgment rendered against the City of Fort Wayne, as aforesaid, in any suits for damage for injury to real or personal property, or for any injury, sustained by any person growing out of any act or doing of said contractor, or its agents, employees or workmen in the premises, and also that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation Acts, of the State of Indiana, now in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any subcontractor or subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said contractor, shall be conclusive against each and all parties to this obligation, as to amount, liability and all other things pertaining thereto.

Said surety for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same, shall in any wise affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications. No change, modification, omission, or addition in and to the terms or conditions of said contract, plans, specifications, drawings, or profile, or any irregularity or defect in said contract or in the proceedings preliminary to the letting and awarding thereof shall in any way effect or operate to release or discharge said surety and the provisions and conditions of Chapter 258 of the Acts of the General Assembly of Indiana, of 1933, shall be, operate as, and become a part of the terms of this bond and said contract the same as if incorporated herein.


IN WITNESS WHEREOF, we have this 7th day of March, 1973,
affixed our signatures and corporate seals to three (3) executed original copies of this Agreement.

NOBIS-WESTROPP CONSTRUCTION CO., INC.

By: William M. Nobis, Pres.
AUTHORIZED AGENT

FIDELITY AND DEPOSIT COMPANY OF MARYLAND
SURETY

By: Donald L. Coffey
Attorney-in-Fact



STATE OF INDIANA:

SS:

COUNTY OF ALLEN:

BEFORE ME, a Notary Public, in and for said State, came

William M. Nobis

as principal, and

Donald E. Coffey

of the

Attorney in Fact, for said

Fidelity and Deposit Company

as surety, with both of

of Maryland

whom I am personally acquainted, and acknowledged that
they subscribed their signatures to the above and fore-
going bond.

SUBSCRIBED TO, before me, a Notary Public, this 8th

day of March, 1973.

Linda Lou Corbly
Notary Public

My Commission Expires:

October 17, 1973



Power of Attorney
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

HOME OFFICE, BALTIMORE, MD.

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by JOHN C. GARDNER, Vice-President, and C. M. PEGOT, JR., Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which reads as follows:

"The President, or any one of the Executive Vice-Presidents, or any one of the additional Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgments, decrees, mortgages and instruments in the nature of mortgages, and also all other instruments and documents which the business of the Company may require, and to affix the seal of the Company thereto."

does hereby nominate, constitute and appoint Walter H. Lupke, Jr., Duane E. Lupke, Donald L. Coffey, Gerald Clancy, Bernice Chaffin, Edward B. Rice, Velda B. Thompson and Walter E. Boose, all of Fort Wayne, Indiana, EACH.....
its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings.....

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes those issued on behalf of Walter H. Lupke, Jr., et al, dated August 10, 1972 and on behalf of Walter H. Lupke, Jr., et al, dated January 17, 1973.

The said Assistant Secretary does hereby certify that the foregoing is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this
16th.....day of.....February.....A.D. 1973.....

ATTEST: FIDELITY AND DEPOSIT COMPANY OF MARYLAND

(SIGNED)

C. M. PEGOT, JR.....By.....JOHN C. GARDNER
Assistant Secretary Vice-President

(SEAL) STATE OF MARYLAND } ss:
City of Baltimore

On this 16th day of February, A.D. 1973, before the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and qualified, came the above-named Vice-President and Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposeth and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the City of Baltimore, the day and year first above written.

(SIGNED)

GLORIA J. COLEMAN

(SEAL)

Notary Public Commission Expires July 1, 1974

CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2 of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this
7th.....day of.....March.....1973.....

DIGEST SHEET

City Utilities J-73-03-26

TITLE OF ORDINANCE Construction Agreement with Nobis-Westropp J-43-73

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE This construction is Phase I of water expansion project in area of Beacon-Vance and Hobson Roads. Said project is part of Capital Improvement Program for Water Utility. The project was bid for prestressed concrete or ductile iron pipe. Nobis Westropp's bid of \$64,860.10 for ductile iron pipe is \$820.40 lower than engineer's estimate.

(Bid tabulations attached)

EFFECT OF PASSAGE Water facilities will be in prior to any proposed paving projects in area.

EFFECT OF NON-PASSAGE Added costs to Utilities for installation after proposed paving of Hobson Road

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

\$64,860.10 cost to Utility.

ASSIGNED TO COMMITTEE (J.N.)

City Utilities - Wren

ORDINANCE CHECK-OFF SHEET

INFORMATION REGARDING ORDINANCE

CONTENTS OF ORDINANCE

BILL NO.	<i>2-73-03-26</i>
ORDINANCE NO.	<i>2-43-73</i>
<input checked="" type="checkbox"/> REGULAR SESSION	<i>3-27-73</i>
SPECIAL SESSION	
APPROVED AS TO FORM AND LEGALITY	<i>Yeller</i>
BILL WRITTEN BY	<i>Bd. of Public Works</i>
DATE INTRODUCED	<i>3-27-73</i>
REFERRED TO SAID STANDING COMMITTEE	<i>Burns City Utilities</i>
REFERRED TO CITY PLAN	
LEGAL PUBLIC HEARING	
LEGAL PUBLICATION	
JOINT HEARING	
DEPARTMENT HEARING	
HOLD FILE	
<input checked="" type="checkbox"/> PASS	<i>4-10-73</i>
DO NOT PASS	
WITHDRAWN	
SUSPENSION OF RULES	
PRIOR APPROVAL	
ORDINANCE TAKEN OUT OF OFFICE	
OTHER INSTRUCTIONS REGARDING ORDINANCE	
CORRECTIONS MADE TO ORDINANCE	
PEOPLE SPEAKING FOR ORDINANCE	
PEOPLE SPEAKING AGAINST ORDINANCE	

<input checked="" type="checkbox"/>	COMMITTEE SHEET
<input checked="" type="checkbox"/>	VOTE SHEET
	PURCHASE ORDERS
<input checked="" type="checkbox"/>	BIDS
	ORDERS, BIDS OR OTHER PAPERS TAKEN OUT AND BY WHOM
	LETTER REQUESTING ORDINANCE DRAWN UP BY CITY ATTORNEY
	COMMUNICATIONS FROM
	ZONING MAPS
	ABSTRACTS
	<i>Survey of attorney</i>
	TITLES - <i>Agreement</i>
	<i>Band</i>
	PRIOR APPROVAL LETTER

Deputy Clerk.

COUNCILMAN'S VOTE

	9 YES	NAYS	ABSENT
BURNS	X		
HINGA	X		
KRAUS	X		
MOSES	X		
NUCKOLS	X		
D. SCHMIDT	X		
V. SCHMIDT	X		
STIER	X		
TALARICO	X		

COMMENTS: